

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
LITTLE ROCK DIVISION

ROBERT DAVIS,	)	
	)	
Plaintiff,	)	
	)	Cause No.4-07-CV-00521-WRW
vs.	)	
	)	
UNION PACIFIC RAILROAD COMPANY,	)	
	)	
Defendant.	)	

**PLAINTIFF'S RESPONSE TO UNION PACIFIC'S STATEMENT OF  
MATERIAL FACTS NOT IN ISSUE**

COMES NOW Plaintiff, Robert Davis, and for his Response to Union Pacific's  
Statement of Material Facts not in Issue and states to the Court as follows:

1. Plaintiff admits to paragraph 1.
2. Plaintiff admits to paragraph 2.
3. Plaintiff admits in part and denies in part paragraph 3. Not all railroad ballast supports track structure and/or provides drainage; see exhibits 2-1, 2-2, 2-3, 2-4 and 2-5 of Plaintiff's Response to Summary Judgment.
4. Plaintiff admits that the Federal Railroad Administration has minimally regulated ballast, but has not fully or completely regulated the area of ballast.
5. Plaintiff admits that some ballast has the stated purpose, but other railroad ballast does not have this purpose.
6. Plaintiff denies this allegation; see Exhibits 2-1, 2-2, 2-3, 2-4, and 2-5 of Plaintiff's Response to Summary Judgment.
7. Plaintiff admits to paragraph 7.

SCHLICHTER, BOGARD & DENTON

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ATTORNEYS FOR PLAINTIFF

**CERTIFICATE OF SERVICE**

I hereby certify that on the 16<sup>th</sup> day of January, 2009 a true and correct copy of the above was filed electronically and delivered by United States First Class mail with postage prepaid to the following:

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